THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.17730 OF 2005

15th November, 2006.

Between:

1. J. Laxman Rao and another .. Petitioners

And

1. The Deputy Commissioner of Prohibition & Excise, Nalgonda Region, Mahaboobnagar, and another. … Respondents.

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WRIT PETITION No.17730 of 2005

ORDER:

The 1st petitioner claims to be the owner of Tractor and Trailer bearing Nos.APO-8597 and APO-8598 respectively. On 28-2-2004 the said vehicle was seized by the 2nd respondent while transporting Black-Jaggery belonging to the 2nd petitioner alleging that the Black-Jaggery was being transported illegally along with I.D. Liquor. Accordingly a case in Cr.No.23 of 2004 was registered on the file of Station House Officer, Kodad Rural P.S. Pending the said enquiry, since the petitioners' request for release of the vehicle in question was not considered, they filed W.P.No.7561 of 2004 and this Court disposed of the writ petition with a direction to the Deputy Commissioner of Prohibition & Excise to release the vehicle along with stock on furnishing Bank Guarantee for Rs.15,000/- and Rs.8,000/- respectively towards the value of the vehicle and Black-Jaggery. Accordingly, the petitioners produced the Bank Guarantees and the vehicle as well as seized stock were released. While so, having completed the investigation, the 2nd respondent filed charge-sheet before the Court of Judicial First Class Magistrate, Kodad which was taken on file as C.C.No.221 of 2004. The learned Magistrate, after hearing both parties, by Judgment dated 8-9-2004 acquitted both the petitioners. In view of the order of the learned Judicial Magistrate of First Class, Kodad in C.C.No.221 of 2004 the petitioners contended

that they are entitled for return of the Bank Guarantees furnished while obtaining the interim custody of the seized vehicle and goods. Alleging that the 1st respondent failed to consider their request, they filed the present writ petition.

I have heard the learned Counsel for the petitioners as well as the learned Government Pleader for Prohibition & Excise appearing for the respondents.

Though the fact that the petitioners herein were acquitted by the learned Judicial First Class Magistrate, Kodad in C.C.No.221 of 2004 is not disputed in the counter-affidavit, the fact remains that the same will not be a bar to initiate proceedings for confiscation of seized goods under the provisions of the A.P. Excise Act, 1968 (for short, 'the Act'). Section 46-D of the A.P. Excise Act, 1968 made it clear that the result of the criminal proceedings either acquittal or conviction or otherwise under the provisions of the Act will not have no bearing on the order of confiscation passed under the Act.

The learned Government Pleader appearing for the respondents across the bar submitted that during pendency of this writ petition, confiscation proceedings initiated under the provisions of the Act were concluded and the Deputy Commissioner of Prohibition & Excise, Nalgonda Region passed an order dated 28-9-2005 confiscating the vehicle and the goods seized. It is further stated that though the said order was served on the petitioners on 5-11-2005, the petitioners did not challenge the same and consequently the said order has become final.

Having regard to the facts and circumstances of the case and since admittedly the vehicle as well as the goods seized are directed to be confiscated, I do not find any substance in the contentions of the petitioners that they are entitled for return of the fixed deposit certificates furnished towards security while obtaining the interim custody of the seized vehicle and the goods.

The Writ Petition which is devoid of any merit is accordingly dismissed. No costs.

15th November, 2006. **(G. ROHINI, J.)**

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